

### **REMARKS**

Claims 1-9, 12, 28-36, 42-48, and 60-61 stand rejected as being unpatentable over U. S. Patent No. 6,711,263 to Nordenstam ("Nordenstam") in view of U. S. Patent No. 6,433,671 to Nysen ("Nysen"). Claims 10, 11, 37, and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over U. S. Patent No. 6,711,263 to Nordenstam ("Nordenstam") in view of U. S. Patent No. 6,433,671 to Nysen ("Nysen") in further view of U. S. Patent No. 6,226,749 to Carloganu et al. ("Carloganu"). Claims 13-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over U. S. Patent No. 6,711,263 to Nordenstam ("Nordenstam") in view of U. S. Patent No. 6,078,791 to Tuttle et al. ("Tuttle"). A Request for Continued Examination ("RCE") is concurrently filed in order to remove the finality of the October 19, 2006 Office Action.

According to the *MPEP* §2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

For expediting an allowance, applicants have cancelled without prejudice or disclaimer claims 1-16, 28-38, 42-48 and 61 and have added new claims reciting feature combinations recited in previously submitted claims but not substantively examined by the Examiner. Claim 60 is amended for purposes of achieving greater clarity and consistency with the originally filed specification including claims. Because the amendment to claim 60 does not alter the claim scope, it will not be regarded as a narrowing claim amendment. It is emphasized that the adding of new claims 62-103 is without prejudice or disclaimer and that applicants reserve the right to prosecute claims of the same scope or of broader scope than the claims prior to the present amendment

in a related application (e.g., a continuing application). Also, applicants maintain all positions in support of patentability previously asserted by the applicants. The previous positions in support of patentability in all of the previous responses by applicants are expressly incorporated herein by reference.

Regarding new claims 62-103, new claims 62-103 recite certain elements in common with previously examined claims 6, 33, 47, and 60. Previously recited claims 6, 33, 47, and 60 recited, in combination with numerous other elements; elements related to transmitting a signal in a predetermined direction, and/or angular range.

The standing rejection of claim 6 is representative of the Examiner's rejection of claims reciting directional and/or angular features. Regarding claim 6, previous claim 6 was rejected over Nordenstam and Nysen. In making the rejection, the Examiner stated the following regarding Nysen:

As to dependent claim 6, "wherein the predetermined format includes transmitting an RF signal in a predetermined direction" however '671 teaches "Another transponder system provides separate launch and receiving transducers...These surface acoustic wave pass beneath the receiving transducer 170 and continue on toward or more reflectors 172 in the direction indicated by the arrow 174" in col. 17, lines 64-67. The motivation to combine '263 and '671 is the same as stated above in claim 1. *October 19, 2006 Office Action, Page 10.*

The referenced section of Nysen recited as follows:

Another transponder system provides separate launch and receiving transducers. As may be seen, surface acoustic waves are generated by a launch transducer 166 and propagated in the direction indicated by the arrow 168. These surface acoustic waves pass beneath the receiving transducer 170 and continue on toward one or more reflectors 172 in the direction indicated by the arrow 174. This acoustic wave energy is reflected by the reflectors 172 and directed back toward the receiving transducer 170 in the direction indicated by arrow 176. *U. S. Patent No. 6,433,671 (column 17, line 64 to column 18, line 6).*

As the Office Action of October 19, 2006 is best understood, the Examiner references the same section of Nysen in rejecting claims 33, 47, and 60.

In reviewing the Examiner's grounds for rejection as to claims 6, 33, 47, and 60 applicants' note that in referencing Nysen the Examiner has not established that a prior art reference alone or in combination has all of the elements of the claimed invention.

Regarding Nysen, the applicants respectfully assert that the relied upon section of Nysen does not relate to the transmission of radio signals from a sending device for receipt by a receiving device, as would be necessary for the relied upon section to bear even a colorable relationship to elements of applicants' claims. Rather, the relied upon section of Nysen appears to relate to the propagation of radio energy within a single radio transponder for disposal within a single device. For example, as noted in column 16 of Nysen preceding the relied upon section, the relied upon section of Nysen appears to relate to technology for reducing spurious signals and insertion losses within a single transponder. Nysen, column 16 recites in part, "Spurious signals as well as insertion losses may be reduced in a passive transponder so that the informational code may be increased in size to any desired length, by providing one or more surface acoustic wave reflectors on the piezoelectric substrate in the path of travel of the surface acoustic wave, to reflect the acoustic waves back toward a transducer for re-conversion into an electric signal." *Nysen, column 16, lines 38-44.*

It is particularly difficult to discern the alleged relationship between the relied upon section of Nysen and the claimed invention given that the reference numerals of the relied upon section do not correspond to any drawing reference numerals of Nysen. For example while Fig. 19 of Nysen below contains elements 170 and 172, applicants cannot find reference numerals 166, 168 of the relied upon section in any drawing of Nysen. Further, while relied upon section refers to element 170 as a transducer and element 172 as a reflector, element 170 in Fig. 19 shows a distribution curve 170, which is also a referenced element of Nysen and a  $\sin x/x$  curve.

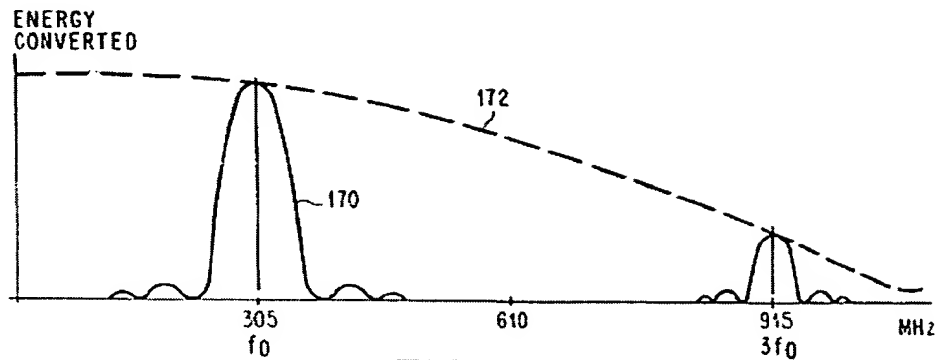


FIG. 19

The reference to direction in the relied upon section of Nysen cannot reasonably be read to bear a relationship to the directional elements of applicants' claims at least because the relied upon section of Nysen does not relate to a sending of a signal from a first device for receipt by a second device and also at least because there is no drawing corresponding to the referenced "directional" elements. Regarding the "angular" element of claim 60, "transmission of said RF signal in a direction that resides within an angular range of plus or minus 15 degrees or less of a certain direction," applicants' note that that the Examiner has not even directed attention to any section of Nysen which allegedly has the above "angular" related elements. For the above reasons applicants respectfully assert that the Examiner has not established a *prima facie* case of obviousness as to 60.

If the Examiner wishes to maintain the rejection of claim 60, still pending, the Examiner is respectfully requested to further explain the applicability of the relied upon section of Nysen in view of evidence brought forward herein by applicants regarding Nysen.

When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as

practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified. 37 C.F.R. 1.104(c)(2).

While the applicants herein may have highlighted a particular claim element of a claim for purposes of demonstrating an insufficiency of an examination on the part of an Examiner, the applicants highlighting of a particular claim element for such limited purpose should not be taken to indicate that the applicants have taken the position that a particular claim element constitutes the sole basis for patentability out of the context of the various combinations of elements of the claim or claims in which it is present.

The Examiner will note that applicants have added claims 62-103. New claims 62-103 are believed to be allowable in that they recite a combination of elements not shown or suggested in the prior art of record.

No amendment herein contains new matter.

Accordingly, in view of the above amendments and remarks, applicants believe all of the claims of the present application to be in condition for allowance and respectfully request reconsideration and passage to allowance of the application.

If the Examiner believes that contact with applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicants' representative at the phone number listed below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

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Respectfully submitted,

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